

Translation

PATENT COOPERATION TREATY

PCT/CH2002/000199



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 1889/PCT	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/CH2002/000199	International filing date (day/month/year) 09 April 2002 (09.04.2002)	Priority date (day/month/year)
International Patent Classification (IPC) or national classification and IPC A61B 17/82, 17/58		
Applicant SYNTHES AG CHUR		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.	
2. This REPORT consists of a total of <u>4</u> sheets, including this cover sheet.	
<input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).	
These annexes consist of a total of _____ sheets.	
3. This report contains indications relating to the following items:	
I <input checked="" type="checkbox"/>	Basis of the report
II <input type="checkbox"/>	Priority
III <input type="checkbox"/>	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
IV <input type="checkbox"/>	Lack of unity of invention
V <input checked="" type="checkbox"/>	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
VI <input type="checkbox"/>	Certain documents cited
VII <input type="checkbox"/>	Certain defects in the international application
VIII <input type="checkbox"/>	Certain observations on the international application

Date of submission of the demand 19 September 2003 (19.09.2003)	Date of completion of this report 22 July 2004 (22.07.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

**I. Basis of the report****1. With regard to the elements of the international application:\***

- ☒ the international application as originally filed
- ☒ the description:  
pages \_\_\_\_\_ 1-7 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the claims:  
pages \_\_\_\_\_ 1-11 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, as amended (together with any statement under Article 19  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the drawings:  
pages \_\_\_\_\_ 1/5-5/5 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

**2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.**

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

**3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:**

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

**4. ☐ The amendments have resulted in the cancellation of:**

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

**5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\***

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

T/CH 02/00199

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

Novelty (N)	Claims	1-11	YES
	Claims		NO
Inventive step (IS)	Claims	1-11	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-11	YES
	Claims		NO

### 2. Citations and explanations

#### 1. Reference is made to the following documents:

D1: US-A-5 810 832

D2: US-A-5 851 209.

2.1 Document D1 is considered to be the prior art closest to the subject matter of claim 1. Said document discloses a device for guiding a cerclage about a bone (see D1: title; see also figure 4), said device comprising the features of paragraphs A) and B) of the present claim 1.

2.2 The subject matter of claim 1 differs therefrom in that the axis of the central drill hole at the front end of the shaft is angled relative to the central axis of the shaft and, as a result, the guide wire at the front end of the shaft is angled relative to the central axis of the shaft (paragraph C)).

The subject matter of claim 1 is therefore novel (PCT Article 33(2)).

2.3 The problem addressed by the present invention is that of guiding the wire around a bone.

2.4 Although document D2 also relates to the above problem, it discloses a shaft which is curved at its distal end.

By comparison therewith, the technical solution according to claim 1 is advantageous in that the shaft is straight. In consequence, the incision is smaller.

Thus, the features of claim 1 involve an **inventive step** (PCT Article 33(3)).

2.6 Claims 2 to 11 are dependent on claim 1 and thus also satisfy the requirements of the PCT in respect of novelty and inventive step.